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EXAMINER	
ODLAND, KATHRYN P	

ART UNIT	PAPER NUMBER
3743	20

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/725,048	BAZIN ET AL.
	Examiner	Art Unit
	Kathryn Odland	3743

-- The MAILING DATE of this communication appears on the cover sheet with th correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *14 November 2003*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-63* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-63* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

13)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

a) ☐ The translation of the foreign language provisional application has been received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) *11, 18* .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other:

DETAILED ACTION

This is a response to the office action dated November 14, 2003. Claims 1-63 are pending.

Response to Arguments

1. Applicant's arguments with respect to the rejection under 35 U.S.C. 102(a and /or e) over Stess et al. in US Patent No. 6,533,971 filed November 14, 2003 have been fully considered but they are not persuasive. Applicant argues:

- Stess does not disclose, "scanning...with an optical image scanner to obtain scanned image data for an image." However, Stess clearly discloses a digital scanner as element 51. A synonym for a digital scanner is an image scanner. An appendix has been provided with a definition of a digital scanner and that the synonym is an image scanner. Applicant claims an **optical image scanner**. Optical is of or relating to sight; visual; relating to or using visible light as defined by The American Heritage® Dictionary of the English Language, Third Edition copyright © 1992 by Houghton Mifflin Company. Thus, optical is a visual representation. Scanning is to move a finely focused beam of **light** or electrons in a systematic pattern over (a surface) in order to reproduce or sense and subsequently transmit an image according to The American Heritage® Dictionary of the English Language, Third Edition copyright © 1992 by Houghton Mifflin Company. Thus, a digital scanner can be considered an optical image scanner since light is used to make an optical visual representation and scanning creates a schematic.

- Stess does not disclose, "placing a transfer member in contact with an external portion of an individual." However, Applicant's attention is drawn to column 3, lines 25-27, which state, "Only two layers are required in the broadest aspect of the present invention." Further, column 5, lines 37-45 recite, "If thermal insulating layer is provided as shirt or layer 25, it will **bond** to the resin-saturated layer impregnated impression shirt layer 27 during hardening of the resin. The next step of the method of the present invention is to remove the impression shirt from the patient." Moreover, column 6, lines 9-20, states that the impression shirt is then scanned by a digital scanner where the inside and/or outside can be scanned. Thus, a transfer member is placed in contact with an external portion of the individual since the insulating layer contacts the individual. This layer is then bonded to the resin layer, removed from the individual and scanned.

2. Applicant's arguments, see paper 17, filed November 14, 2003, with respect to the rejections under Scott in US Patent No. 6,178,255, Herzog in US Patent No. 6,241,668, and Rigg et al. in US Patent No. 5,785,960 in view of Stess et al. in US Patent No. 6,533,971 have been fully considered. However, upon further consideration, the rejections have been withdrawn in view of new rejections.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1, 11, 21, 22, 30, 50, 51, 54, and 60 and 63 are rejected under 35 U.S.C. 102(a and/or e) as being anticipated by Stess et al. in US Patent No. 6,533,971.

Regarding claim 1, Stess et al. disclose a process for acquiring scanned image data relating to an external body portion via placing a transfer member in contact with an external body portion of an individual so as to obtain a transfer image on the transfer member, wherein the transfer image is present on the transfer member after the transfer member and the external body portion are out of contact with one another, wherein the transfer image is not a fingerprint or fingerprints, wherein the external portion that the transfer member is placed in contact with does not include a tooth or teeth, as recited in column 3, lines 20-30, column 5, lines 40-65 and column 6, lines 5-15; and scanning the transfer image with an optical scanner to obtain scanned image data for an image representative of at least one characteristic of the external body portion and/or at least one product applied to the external body portion, as recited in column 6, lines 10-15.

Regarding claim 11, Stess et al. disclose that as applied to claim 1, as well as, a transfer member that is a moldable material and wherein the process includes placing moldable material in contact with the skin of the individual to produce, on the moldable material, the surface profile of the skin, as recited in column 5.

Regarding claim 21, Stess et al. disclose that as applied to claim 1, as well as an external portion that includes skin, as recited throughout.

Regarding claim 22, Stess et al. disclose that as applied to claim 21, as well as, an external portion that is a torso, as recited in throughout the specification.

Regarding claim 30, Stess et al. disclose that as applied to claim 1, as well as, acquiring scanned image data and displaying an image corresponding to the scanned image data, as recited in column 6; viewing the displayed image data to analyze at least one characteristic (to construct an orthopedic torso brace).

Regarding claim 50, Stess et al. disclose that as applied to claim 1, as well as, emitting light from the scanner onto the transfer member, as recited in column 6, lines 8-15.

Regarding claim 51, Stess et al. disclose that as applied to claim 1, as well as, a scanner that is configured in the form of a scanner for scanning documents (wherein the scanner is a digital scanner and thus able to scan documents).

Regarding claim 54, Stess et al. disclose that as applied to claim 1, as well as, a transfer image on the transfer member that indicates a condition of the external portion, as recited throughout.

Regarding claim 60, Stess et al. disclose that as applied to claim 1, as well as, analyzing that necessarily that is performed by a trained person.

Regarding claim 63, Stess et al. disclose a process for acquiring scanned image data relating to an external body portion and/or product applied to the external body portion via placing a transfer member in contact with an external portion of an individual so as to obtain a transfer image on the transfer member; wherein the transfer image is present on the transfer member after the transfer member and the external portion are out of contact with one another; wherein the transfer image that is not a fingerprint or fingerprints; and scanning the transfer image with an optical image scanner to obtain scanned image data for an image representative of at least one characteristic of the external body portion and/or at least one product applied to the external body portion, wherein the scanner is configures in the form of a scanner for scanning documents, as recited in column 3, lines 20-30, column 5, lines 40-65 and column 6, lines 5-15.

5. Claims 1, 2, 21, 22, 30, 49, 50, 52, 53, 58, and 60 are rejected under 35 U.S.C. 102(b) as being anticipated by Groh in US Patent No. 5,343,536.

Regarding claim 1, Groh discloses a process for acquiring scanned image data relating to an external body portion and/or a product applied to the external body portion, via placing a transfer member (such as 11 with associated components) in contact with an external portion of an individual (15) so as to obtain a transfer image

(such as a sample 16) on the transfer member, wherein the transfer image is present on the transfer member after the transfer member and the external portion are out of contact with one another, wherein the transfer image is not a fingerprint or fingerprints, and wherein the external portion that the transfer member is placed in contact with does not include a tooth or teeth; and scanning the transfer image with an optical image scanner to obtain scanned image data for an image representative of at least one characteristic of the external body portion, and/or at least one product applied to the external body portion, as recited in column 4, where optical is considered light and column 4, lines 47-65 recite image analysis using scanning where light would necessarily be involved.

Regarding claim 2, Groh discloses that as applied to claim 1, as well as, a transfer member that includes adhesive (12) material provided on a backing, the adhesive material of the transfer member being placed in contact with skin and the transfer member being removed from the skin to transfer cells from the skin of the individual to the transfer member, as recited in column 4.

Regarding claim 21, Groh discloses that as applied to claim 1, as well as, an external portion that includes at least one of the skin of the individual, at least one strand of hair of the individual, at least one fingernail of the individual, at least one toe nail of the individual, and at least one tooth of the individual, as recited in column 4.

Regarding claim 22, Groh discloses that as applied to claim 21, as well as, an external portion includes the skin of the individual, and wherein the external portion is located on one of the hand, foot, arm, leg, torso, and face of the individual, as recited in column 3, lines 62-68.

Regarding claim 30, Groh discloses that as applied to claim 1, as well as, displaying an image corresponding to the scanned image data; and viewing the displayed image to analyze said at least one characteristic, as recited throughout.

Regarding claim 49, Groh discloses that as applied to claim 1, as well as, scanned image data that includes data regarding color of said transfer image, as recited in column 5.

Regarding claim 50, Groh discloses that as applied to claim 1, as well as, scanning that includes emitting light from the scanner onto the transfer member, as recited in column 4.

Regarding claim 52, Groh discloses that as applied to claim 1, as well as, a calibration member having one of a predetermined size and a predetermined color, as recited in columns 5 and 6.

Regarding claim 53, Groh discloses that as applied to claim 1, as well as, obtaining scanned image data relating to multiple scanned images, as recited in columns 4-6.

Regarding claim 58, Groh discloses that as applied to claim 1, as well as, analyzing at least one of the external body portion and the transfer member with analysis equipment, as recited in columns 4-6.

Regarding claim 60, Groh discloses that as applied to claim 1, as well as, analyzing of the external portion that is performed by a trained person.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. Claims 1, 12, 14-16, 21-22, 25-27, 30-32, and 50-54 and 63 are rejected under 35 U.S.C. 103(a) as being unpatentable over Scott et al. in US Patent No. 6,178,255 in view of Chung et al. in US Patent No. 6,355,439.

Scott et al. disclose a process for acquiring scanned image data relating to an external body portion or a product applied to the external body portion by placing a transfer member in contact with an external portion of an individual so as to obtain a transfer image on the transfer member; scanning the transfer image with an optical image scanner (10) to obtain scanned image data for an

image representative of at least one characteristic of the external body portion or at least one product applied to the external body portion; a transfer member that is a window, the window being a portion of the image scanner defining a scanning region; placing the external portion of the individual in the vicinity of a scanning region of the scanner, and scanning the external portion with the image scanner; wherein the scanning of the transfer image of the transfer member and the scanning of the external portion occur one of simultaneously and one after another; an external portion of the individual is placed into contact with the scanning region of the scanner; a scanner that is a flat bed scanner and wherein the external portion of the individual is moved into contact with the scanning region; an external portion that includes at least one of the skin of the individual, at least one strand of hair of the individual, at least one fingernail of the individual, at least one toe nail of the individual, and at least one tooth of the individual; an external portion that is located on one of the hand, foot, arm, leg, torso, and face of the individual; an image scanner that is associated with a first computer (14) located at a first location; transferring the scanned image data from the first computer to a second computer located at a second location remote from the first location, as seen in figure 1; transferring that includes transmitting the scanned image data via the Internet, as seen in figure 1; storing the scanned image data on a data storage medium (26), wherein the transferring includes shipping the data storage medium to the second location, which is the way to ship a fingerprint card; displaying an image corresponding to the scanned image

data and viewing the displayed image to analyze said at least one characteristic; displaying the image at the second location, as recited in column 3, lines 37-65; sending the scanned image data to a plurality of locations so that the at least one characteristic may be analyzed numerous times, as recited in column 3, lines 50-52; scanning that includes emitting light from the scanner onto the transfer member; a calibration member having one of a predetermined size and a predetermined color, as recited in column 5, lines 19-30; obtaining scanned image data relating to multiple scanned images; and a transfer image on the transfer member that indicates a condition of the external portion.

Although Scott et al. disclose the invention for use as a fingerprint scanner, it would be obvious to expand the system to include other body parts such as toe prints for the purpose of obtaining and database storing data of scanned images. Moreover, Chung et al. teach that in addition to fingerprints the toes and palms can be used to obtain DNA information from epithelial cells for the purpose of disease diagnosis, genetic identification, etc. as recited in columns 1 and 2. Thus, it would be obvious to one with ordinary skill in the art to expand the system of Scott et al. to include obtaining DNA information of other body parts such as toes.

Further, applicant argues that when placing the finger on the platen (72) that the transfer image is no longer present on the transfer member after the transfer member and the external portion are out of contact with one another. However, fingerprints remain on items after they are touched. For example,

when any glass that is touched a fingerprint will remain. Therefore, a transfer image remains. Nonetheless, Chung et al. teach adhesive sheets to obtain samples and to record the image on an electronic medium. Thus, it would be further obvious to also include adhesives as transfer members in addition to the image scanner plate, as taught by Chung et al. in column 2 for the purpose of enabling the capture of additional information.

5. Claims 1-3, 9-26, 30-40, 43-46, and 49-59 and 63 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herzog in US Patent No. 6,241,668 in view of Dusserre in FR 2736450 and further in view of Groh in US Patent No. 5,343,536.

Herzog discloses a process for acquiring image data relating to an external body portion or a product applied to the external body portion by placing a transfer member in contact with an external portion of an individual so as to obtain a transfer image on the transfer member; scanning the transfer image with an optical image scanner (16, 1, 2, 3, 4) to obtain scanned image data for an image representative of at least one characteristic of the external body portion or at least one product applied to the external body portion, wherein although the disclosure discusses placing documents on the scanner and using the video recorder for obtaining human images, it is within the scope of the invention to use the scanner for obtaining human scanning information.

Telemedicine and teledermatology are extremely well known in the art. There are thousands of patents and applications not to mention the numerous articles that focus on Internet diagnosis and treatment via transmitting

information over the Internet. On mere example is Dusserre who teaches transferring human data via scanning, as recited on page 4 and throughout the specification. Thus, given this knowledge and teaching of remote diagnosis, it would be obvious to one with ordinary skill in the art and within the scope of the invention to scan human scanning images.

Herzog also discloses a transfer member that is a window, the window being a portion of the image scanner defining a scanning region and a scanner that is a flat bed scanner, as seen in figure 1; an image scanner that is associated with a first computer located at a first location, and wherein the process further comprises transferring the scanned image data from the first computer to a second computer located at a second location remote from the first location, as recited in column 4, lines 6-25; transmitting the scanned image data via the Internet, as recited in column 4, line 22; viewing the displayed image to analyze said at least one characteristic; transferring the scanned image data from the first computer to a second computer at a second location remote from the first location, wherein the image is displayed at the second location; sending the scanned image data to a plurality of locations so that the at least one characteristic may be analyzed numerous times; monitoring the status of the external portion during treatment of the external portion; providing a recommendation for a treatment of the external portion based on the monitored status, as stated in column 2, lines 1-9; providing the individual with information regarding the effectiveness of the treatment (inherent); repeating at least the

acquiring (also inherent); image data that is stored in an image database, as recited in column 2, lines 48-51; determining a recommendation of at least one treatment for the external portion and providing the treatment recommendation so that the external portion of the individual may treated according to the recommendation, as recited in column 3, lines 40-50, wherein the treatment recommendation may be a recommendation regarding use of at least one of a cosmetic product and a dermatological product; recommendation that includes providing the treatment recommendation to at least one of the individual and a treatment provider; recommendation that includes transmitting said recommendation to said at least one of the individual and the treatment provider via the Internet; image data that includes data regarding color of said transfer image; scanning that includes emitting light from the scanner onto the transfer member; a scanner is configured in the form of a scanner for scanning documents; scanned image data relating to multiple scanned images; a transfer image on the transfer member that indicates a condition of the external portion; and analyzing of the external portion is performed by a trained person.

Moreover, Groh teaches a transfer member that includes adhesive. Therefore, it would be obvious to one with ordinary skill in the art and dependent on the desired information gathered to employ the adhesive teachings of Groh for the purpose of obtaining transfer information. Further within the scope is adhesive material provided on a backing, the adhesive material of the transfer member being placed in contact with skin and the transfer member being

removed from the skin to transfer cells from the skin of the individual to the transfer member and a transfer member that is in contact with adhesive material of a second transfer member and separating the transfer members to transfer a portion of the skin cells to the second transfer member are well known processes. Therefore, it would be obvious to one with ordinary skill in the art at the time the invention was made to use an adhesive material such as tape to obtain samples to scan images of items that could not be directly placed on that scanner. Furthermore, it is also within the scope of the invention to have a transfer member that is a sheet of material, and wherein sheet of material is placed in contact with lips of the individual and transferring a lip product from the lips to the sheet of material and a lip product that is lipstick, in which the lipstick could be used as a coloring medium to better transfer the image for medical analysis. Also, a transfer member that is a moldable material, and wherein the process includes placing the moldable material in contact with the skin of the individual to produce, on the moldable material, the surface profile of the skin; a transfer member is one of a hair comb and a hair brush, wherein the placing of the transfer member in contact with the external body portion includes passing said one of the hair comb and the hair brush through hair, wherein the transfer image on the transfer member includes at least one of strands of hair and skin cells would also be obvious to one with ordinary skill in the art as methods to obtain scans of those types. Furthermore, the inherent way to use a flat scanner as seen in figure 1 is to place the external portion of desired scanned image in

the vicinity of a scanning region of the scanner, scanning the external portion with the image scanner, wherein it is within the scope of the invention to have a human be scanned, wherein the scanning of the transfer image of the transfer member and the scanning of the external portion occur one of simultaneously and one after another and the individual is placed into contact with the scanning region of the scanner. It is also within the scope of the invention to have the scanner be hand-held. Moreover, placing liquid between the external body portion and the scanning region, the liquid altering the index of refraction to improve visualization of said at least one characteristic and placing at least one of a dye; a pigment on the external portion to improve visualization of said at least one characteristic; a transfer member that is configured to change color in response to a condition of the external portion; and treating at least one of the transfer member and the external body portion to enhance the transfer image on the transfer member are well known techniques often used with microscopes. Therefore, it would be obvious to one with ordinary skill in the art to utilize them with the scanner when scanning images similar to those obtained from a microscope. Although not explicitly recited, it is within the scope of the invention to have the external portion include at least one of the skin of the individual, at least one strand of hair of the individual, at least one fingernail of the individual, and at least one toe nail of the individual; a location on one of the hand, foot, arm, leg, torso, and face of the individual; a location on the lips of the individual; at least one strand of hair that is one of a strand of hair from the scalp of the

individual, an eyelash of the individual, and an eyebrow hair of the individual. Additionally, a computer that at least partially performs the determining of the treatment recommendation, the computer being located at a location remote from that of the image scanner would be feasible since the server could provide comparative data. A calibration member having one of a predetermined size and a predetermined color would also be obvious to one with ordinary skill in the art. Furthermore, analyzing at least one of the external body portion and the transfer member with analysis equipment where the analysis equipment is chosen from one of a corneometer, a dermal torque meter, an image analyzer, a PH meter, and a device for measuring hydration of the skin is also within the scope of the invention.

6. Claims 1-10, 12, 14-16, 18, 27-30, 38-43, 46-50, and 60-63 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rigg et al. in US Patent No. 5,785,960 in view of Dusserre in FR 2736450 and further in view of Groh in US Patent No. 5,343,536.

Rigg et al. disclose a process for acquiring scanned image data relating to an external body portion or a product applied to the external body portion, by placing a transfer member in contact with an external portion of an individual so as to obtain a transfer image on the transfer member; and scanning the transfer image with an scanner to obtain scanned image data for an image representative of at least one characteristic of the external body portion, and/or at least one product applied to the external body portion, as recited in column 2. Rigg et al.

also disclose a transfer member that is a window, the window being a portion of the image scanner defining a scanning region; placing the external portion of the individual in the vicinity of a scanning region of the scanner; scanning the external portion with the image scanner; a transfer member and the scanning of the external portion that occur one of simultaneously and one after another; the individual is placed into contact with the scanning region of the scanner; a scanner that is a hand-held scanner wherein the scanner is moved into contact with the external portion of the individual, as seen in figure 1; storing the scanned image data on a data storage medium (36), wherein the transferring includes shipping the data storage medium to the second location, as recited in column 5 and seen in figure 1; sending to the second location at least one of billing information and payment information; determining a recommendation of at least one treatment for the external portion; providing the treatment recommendation so that the external portion of the individual may treated according to the recommendation; a treatment recommendation that is a recommendation regarding use of at least one of a cosmetic product and a dermatological product; at least one of the cosmetic product and the dermatological product is one of a makeup product, a care product, a hair product, a skin product, and a sun exposure product; a treatment recommendation that is a recommendation regarding application of said at least one of the cosmetic product and the dermatological product to the external portion; providing product ordering information along with the treatment recommendation; providing the treatment

recommendation to at least one of the individual and a treatment provider; scanned image data includes data regarding color of said transfer image; scanning that includes emitting light from the scanner onto the transfer member, as recited in column 3, lines 10-20; analyzing the external portion, wherein the analyzing of the external portion is performed by a trained person; an external portion that includes skin wherein the cosmetic product is foundation makeup; and storing information relating to the grade in a database.

Rigg et al. do not disclose an optical image scanner. However, Dusserre teach telemedicine with optical imaging. Thus, it would be obvious to one with ordinary skill in the art at the time the invention was made to further provide optical image scanning in the system of Rigg et al. for the purpose of obtaining more information.

Rigg et al. do not disclose placing a transfer member in contact with an external portion of an individual so as to obtain a transfer image on the transfer member wherein the transfer image is present on the transfer member after the transfer member and the external portion are out of contact with one another. However, Groh teaches to scan a transfer member with an adhesive. Therefore, it would be obvious to further include scanning transfer members in the system of Rigg et al. for the purpose of obtaining additional patient information.

Additionally, placing the adhesive material of the transfer member in contact with adhesive material of a second transfer member and separating the transfer members to transfer a portion of the skin cells to the second transfer

member wherein the transfer member is placed in contact with an external body portion including a cosmetic product applied thereto, wherein the image of the scanned image data is representative of at least one characteristic of the cosmetic product; an external portion that includes lips and wherein the cosmetic product is one of a lip care product and a lip makeup product; a transfer member that is formed of fabric; a transfer member that is an article of clothing; a transfer member is a sheet of material, and wherein the process includes placing the sheet of material in contact with lips of the individual and transferring a lip product from the lips to the sheet of material, wherein the lip product is lipstick; an external portion that is located on the lips of the individual; transferring a questionnaire answers from the first location to the second location, at least some of the questionnaire answers being related to at least one of a condition of the external portion and the product applied to the external body portion; a transfer member that is placed in contact with an external body portion including a cosmetic product applied thereto, and wherein the scanned image data is representative of at least one characteristic of the cosmetic product; and providing a grade indicative of at least one of the condition and performance of the product, they are features/modification that would be obvious to one with ordinary skill in the art at the time the invention was made. It would be obvious to incorporate a flat scanner to include the ability to obtain other cosmetic information and provide additional products.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure are as follows: US 2003/0108228 and US 2003/0099383.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kathryn Odland whose telephone number is (703) 306-3454. The examiner can normally be reached on M-F (7:30-5:00) First Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry A Bennett can be reached on (703) 308-0101. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9302.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

KO

Henry Bennett
Supervisory Patent Examiner
Group 3700

Appendix

Definition: digital scanner

Search dictionary for digital scanner

Source: *WordNet (r) 1.7*

digital scanner
n : an electronic device that generates a digital representation of a document for data input to a computer [syn: scanner, image scanner]